

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 98-234

April 7, 1998

PUBLIC UTILITIES COMMISSION
Inquiry Into Regional Uniform Customer
Information Disclosure for Retail
Electricity Sales

NOTICE OF INQUIRY

WELCH, Chairman; NUGENT and HUNT, Commissioners

I. SUMMARY

In this Notice, we initiate an inquiry to obtain information and comments on a regional uniform customer information disclosure mechanism that may be appropriate for adoption in Maine.

II. STATUTORY PROVISIONS

During its 1997 session, the Legislature enacted "An Act to Restructure the State's Electric Industry," P.L. 1997, ch. 316 (Act).¹ The Act deregulates electric generation services and allows for retail competition beginning on March 1, 2000. At that time, Maine's electricity consumers will be able to choose generation providers from a competitive market. In enacting this legislation, the Legislature recognized the importance of the availability of accurate information to enhance the ability of consumers to effectively make choices in a competitive market; the availability of such information is generally considered necessary for the operation of an efficient competitive market.

Accordingly, the Legislature directed the Commission to establish information disclosure filing requirements and standards for publishing and disseminating information that enhance consumers' ability to effectively make choices in a competitive electricity market. 35-A M.R.S.A. § 3203(3). Additionally, section 4 of the Act requires the Commission, in adopting the rule requirements under section 3203(3), to consider a list of specified information filing requirements. Finally, the Act directs the Commission to consider requiring standard billing information and to investigate the adoption of standards consistent with other New England states. 35-A M.R.S.A. § 3203(15). A copy of the legislative provisions cited above is attached.

¹The Act is codified as Chapter 32 of Title 35-A (35-A M.R.S.A. §§ 3201-3207).

III. REGIONAL DISCLOSURE EFFORTS

In the spring of 1997, the National Council on Competition in the Electric Industry² initiated an effort to develop a system of uniform consumer information disclosure for the retail sales of electricity that might be implemented throughout New England. The public utility commissions in New England supported the effort. The Regulatory Assistance Project (RAP) was designated manager and primary advisor of the National Council's New England project. Between April and September of 1997, a broad range of stakeholders attended a series of public meetings, whose purpose was to identify issues and analyze options related to uniform customer information disclosure. The process culminated with a Report and Recommendations to the New England Utility Regulatory Commissions, presented by RAP on October 6, 1997.³ The Report contained detailed recommendations as to a uniform disclosure system for New England, as well as rules to implement the system. To achieve uniform and enforceable disclosure requirements in the region, the Report recommended that each state initiate a rulemaking proceeding based on a uniform proposed rule.

The New England Conference of Public Utility Commissioners (NECPUC) assigned its Staff Energy Policy Committee⁴ to review the rules contained in the RAP Report and develop a NECPUC-sponsored model rule that could be considered in each of the states. The Staff Committee developed a model rule that NECPUC has sanctioned as a starting point for consideration of disclosure policies in each state (a copy of the NECPUC model disclosure rule and sample label is attached).⁵

²The National Council is a joint project of the National Conference of State Legislatures and the National Association of Regulatory Utility Commissioners; members of the National Council include the Environmental Protection Agency, the Department of Energy, and the Federal Energy Regulatory Commission. The National Council's disclosure project is aided by a federal interagency task force that includes the Food and Drug Administration and the Federal Trade Commission.

³The October 6, 1997 Report is available on the RAP web page, <http://www.rapmaine.org>. The Commission will provide a copy of the Report at the request of any interested person.

⁴This Staff Committee is made up of staff members from each of the six New England utility commissions.

⁵The Massachusetts Department of Telecommunications and Energy has adopted a disclosure rule that is similar in most respects to the NECPUC model rule.

IV. DESCRIPTION OF NECPUC MODEL RULE

In this section, we provide a brief general description of the NECPUC model rule. The primary feature of the model rule is a requirement that all competitive electricity providers provide existing and prospective customers with a label that includes specified information in a uniform format. The purpose of the uniform label is to allow customers to easily compare the attributes of the electricity offered by different competitive providers.

The uniform label would contain information in four general categories: generation price; contract terms; supply mix; and air emissions. In the price section of the label, each provider would state its average cost per kWh at four different levels of usage (250, 500, 1000, and 2000 kWh).⁶ The contract terms section of the label would indicate both the duration of the contract and whether the contract price is fixed over the contract period or how it may vary (e.g., with CPI, spot market, etc.). The power sources section of the label would contain a table presenting the competitive provider's resource portfolio on percentage terms over an historic period. Finally, the uniform label would include a section on air emissions, indicating the level of nitrogen oxide, sulfur dioxide, and carbon dioxide emissions as a percent of the regional average. As with the supply mix, the emissions disclosure would be on an historic basis.⁷

The model rule allows the disclosure label to present the provider's supply mix and air emissions on an aggregate Company basis, or on a disaggregated product basis. The model rule contemplates a system of tracking transactions and verification for the supply mix and air emission disclosures that is tied to the Independent System Operator - New England (ISO-NE) settlement system.

Finally, the model rule specifies that the disclosure label must be provided to customers prior to the initiation of service and on a quarterly basis thereafter, to any person upon request and in any direct mail marketing materials. The model rule

⁶The average price will be determined based on regional load profiles for customer classes.

⁷The model rule contains provisions allowing for projected supply mix and air emissions for new companies or products.

requires that a specified list of "terms of service" accompany the distribution of the disclosure label.⁸

V. REQUEST FOR COMMENTS

Interested persons are invited to comment on the general conceptual approach contained in the NECPUC model rule as well as any of the specific provisions. We also request persons to comment on the following matters.

1. Please comment on whether the NECPUC model rule complies with the purposes and intent of 35-A M.R.S.A. §§ 3203(3) and (15).

2. Please comment on whether the disclosure label should contain additional information not contemplated in the NECPUC model rule.

3. Section 4 of the Act contains a list of filing requirements that Commission must consider. The NECPUC disclosure label contains information generally consistent with the listed items. Should the disclosure rule or label be modified in light of the considerations required by section 4 of the Act?

4. Item 5 of section 4 contains a list of emissions. As mentioned above, the model rule requires disclosure of nitrogen oxide, sulfur dioxide and carbon dioxide. These emissions were included because, at the current time, they can be accurately measured. Please comment on whether the other emissions in item 5 should be included and discuss whether they can be accurately measured for disclosure purposes.

5. Larger commercial and industrial customers are likely to be relatively sophisticated buyers of electricity and thus less likely to benefit from the label disclosure requirements. For this reason, we are inclined to limit the disclosure requirements only to products offered to residential and small commercial service. Please comment. Please also comment on how small commercial service should be defined for this purpose.

6. As mentioned above, the NECPUC model rule contemplates that the tracking of transactions and verification for supply mix and emissions disclosure will be tied to the ISO-NE settlement process. Please comment on mechanisms for the

⁸The Commission has issued a separate NOI on licensing and customer protection standards, Docket No. 97-590. The Commission may combine the subject matter of that NOI and uniform disclosure into a single rulemaking.

tracking of transactions and verification for retail service in those parts of Maine that are not within the ISO-NE control area and thus not subject to its settlement processes.

VI. PROCEDURE

Interested persons may participate in this Inquiry by filing a letter stating their interest in this proceeding not later than April 14, 1998. Such letters should be addressed to Dennis L. Keschl, Administrative Director, Public Utilities Commission, 242 State Street, 18 State House Station, Augusta, Maine 04333-0018, and include the docket number of this proceeding 98-234. The Commission will then issue a service list. All subsequent filings must be filed to all interested persons on the service list. Interested persons may file substantive comments by May 1, 1998. After we review the written comments, we may convene a technical conference or issue written requests for further information prior to initiating the formal rulemaking process.

Accordingly, we

O R D E R

1. That an Inquiry shall be opened as described in the body of this Notice;
2. That this Notice shall be sent to all electric utilities in the State of Maine;
3. That the Notice shall be sent to the service list for electric restructuring, Docket No. 95-462; and
4. That this Notice of Inquiry will also be posted on the Commission web site, <http://www.state.me.us/mpuc>.

Dated at Augusta, Maine this 7th day of April, 1998.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent
 Hunt

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of adjudicatory proceedings are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 6(N) of the Commission's Rules of Practice and Procedure (65-407 C.M.R.11) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which consideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320 (1)-(4) and the Maine Rules of Civil Procedure, Rule 73 et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320 (5).

Note:The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.